

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

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|------------------------|---|------------------|
| MARTIN ELLIOTT, |) | |
| |) | |
| Plaintiff, |) | |
| |) | CIVIL ACTION NO. |
| VS. |) | |
| |) | 3:08-CV-2156-G |
| AUTOFLEX AUTO LEASING, |) | |
| |) | ECF |
| Defendant. |) | |

AMENDED MEMORANDUM OPINION AND ORDER

This court is required to examine the basis for its subject matter jurisdiction, on its own motion if necessary. *Torres v. Southern Peru Copper Corp.*, 113 F.3d 540, 542 (5th Cir. 1997). Diversity of citizenship is alleged as the basis for subject matter jurisdiction in this case. Defendant's Notice of Removal ¶ 7. The plaintiff, an individual, is alleged to be "an Idaho citizen." *Id.* ¶ 3. It is alleged that "[a]t all times relevant, Defendant was a limited partnership and is now a limited liability company." *Id.* ¶ 4.

Diversity of citizenship jurisdiction requires that the citizenship of the plaintiff must be different from the citizenship of the defendant. *Strawbridge v. Curtiss*, 7 U.S.

267 (1806). Generally, the citizenship of artificial entities other than corporations is determined by the citizenship of their members. See *Carden v. Arkoma Associates*, 494 U.S. 185 (1990). This rule applies to limited partnerships, such as the defendant was, see *Carden*, 494 U.S. at 195-96, and to limited liability companies such as the defendant currently is. *E.g.*, *Wise v. Wachovia Securities, LLC*, 450 F.3D 265, 267 (7th Cir.), *cert. denied*, ___ U.S. ___, 127 S.Ct. 582 (2006); *Johnson v. Columbia Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006); *Pramco, LLC ex rel. CFSC Consortium, LLC v. San Juan Bay Marina, Inc.*, 435 F.3d 51, 54-55 (1st. Cir. 2006).

Within ten days of this date, the defendant shall file and serve an amended notice of removal alleging the names and citizenship of all its partners, general and limited, when it was a limited partnership, and of all its members/owners now that it is a limited liability company. Failure to timely file and serve such an amended notice of removal will result in remand to the Fourth Judicial District Court of Ada County, Idaho, without further notice, for lack of subject matter jurisdiction.

SO ORDERED.

December 15, 2008.



A. JOE FISH
Senior United States District Judge